helped to supply the family with such means of living as would enable them to live in a style and condition and with a degree of comfort suitable and becoming to their station in life, and the father was lacking in the health or ability requisite to furnish such means by his own reasonable efforts, the father was dependent upon the son for support within the meaning of the statute. *Benjamin F. Shaw Co.* v. *Palmatory, et al.* (Del., 1919), 105 A. 417

This rule of law, to which the jury must apply the evidence in a determination of the question of dependency in fact, has, in so far as dependency is defined to mean dependent for the ordinary necessities of life for a person of that class and position in life, been widely approved and employed as the most just standard capable of practical application. *Simmons* v. *White Bros.*, 80 L. T. N. S. 344; Lord Shand in *Main Colliery Co.* v. *Davies*, 83 L. T. N. S. 83; *Dazy* v. *Apponaug Co.*, 36 R. I. 81; *Hotel Bond Co.'s Appeal*, 89 Conn. 143; *Parson* v. *Murphy*, 101 Neb. 542 (546, 547); *Poccardi* v. *State Compensation Com'r*, 79 W. Va. 684; *In re Carroll* (Ind., 1917), 116 N. E. 844; *Jackson* v. *Erie, etc.*, 86 N. J. L. 550; BOYD, WORKMEN'S COMPENSATION, Secs. 232, 234, 496; BRADBURY'S WORKMEN'S COMPENSATION, 2nd Ed., Vol. I, p. 571. The further requirement, as expounded by the principal case, to establish a condition of dependency, namely, that the father be deficient in the physical or mental capacity to support the family by his own reasonable efforts, also commends itself as founded in common sense and good reason. Most of the cases, however, are barren of discussion on this point and do not seem concerned with more than a consideration of the claimant's actual reliance for support, as above explained, upon the wages of the deceased at the time of injury or death. *Simmons* v. *White, supra; Howells* v. *Vivian and Sons*, 85 L. T. N. S. 529; *State* v. *District Court of Rice County*, 134 Minn. 324; *Conners* v. *Public Service Electric Co.*, 89 N. J. L. 99; *Havey* v. *Erie Railroad Co.*, 88 N. J. L. 684. Yet in at least three states governed by statutes substantially similar to that of Delaware, the courts have expressed themselves as opposed to such an interpretation of the law. *Herrick's Case*, 217 Mass. 111; *Kenney's Case*, 222 Mass. 401; *McMahon's Case*, 229 Mass. 48; *In re Lanman* (Ind., 1917), 117 N. E. 671; *Blanton* v. *Wheeler and Howes Co.*, 91 Conn. 226 (232). And see also *State* v. *District Court of Ramsey County*, 134 Minn. 131, decided under a 1915 amendment to the Minnesota Act of 1913.

WORKMEN'S COMPENSATION ACT—DEPENDENCY—REMARRIAGE OF DECEASED WORKMAN'S WIDOW.—Plaintiff, widow of a workman fatally injured while in employ of defendant company, remarried before expiration of the period during which she was entitled to compensation by award under the Workmen's Compensation Act. Upon application of the defendant company to vacate or modify the award on the ground that plaintiff was then dependent, within the meaning of the Act, solely on her second husband, it was *held* that the former decree could not be reviewed and that plaintiff's remarriage did not affect her right to compensation. *Newton* v. *Rhode Island Co.* (R. I., 1919), 105 Atl. 363.

The court bases its decision upon the construction of the Workmen's

Compensation Act of Rhode Island (1912 Pub. Laws, Ch. 831) which provides for adjustment of compensation when an injured employee's incapacity is increased, diminished or ended, but which is absolutely silent about the right to or procedure for modification or vacation of decree in case of subsequent change in the financial condition of a deceased workman's dependents. Section 7 of the Act, in part, reads: "The following persons shall be conclusively presumed to be wholly dependent for support upon a deceased employee: (a) A wife upon a husband with whom she lives or upon whom she is dependent at the time of his death". A consideration of this definition would seem to warrant the inference that dependency is determined with reference to the situation at the time of the workman's death and not, as the court states, "at the time of the injury which results in his death." However that may be, the first clause of paragraph (a) plainly indicates that the wife need not be *in fact* either partially or wholly dependent financially upon her husband at the time of his death to entitle her to compensation, and the court's finding that her subsequent financial independence would not terminate her right to compensation, certainly appears to be in keeping with the legislature's intention. *Botts Case,* 230 Mass. 152, 119 N. E. 755, decided under a similar act, supports the principal case and concludes that, "Whatever incongruity there may be in continuing payments to a person on the presumption that she is dependent on a deceased husband when in fact she is receiving ample support from a new husband is a matter for the Legislature and not for the courts to remove". Whether or not in like recognition of such "incongruity", the New Jersey Act of 1911 (P. L. p. 134) was amended in 1913 (P. L. p. 302) to cut off the widow's right to compensation if she remarried before the end of the period covered by weekly payments may not be entirely clear. Yet in *Hansen* v. *Brann and Stewart Co.* (N. J., 1917), 103 Atl. 696, the court refused to stop compensation the right to which vested before passage of the 1913 amendment, although the widow remarried after that legislation went into effect. Maryland provides (Acts 1914, Ch. 800, Sec. 42) that if the widow remarries without *dependent children,* "all compensation under this amendment shall cease." In Illinois (Hurd's Rev. St. 1915-16, Ch. 48, Sec. 7) compensation is paid to the widow if the deceased workman was under legal obligation to support her at the time of his injury or contributed to her support within four years previous to that time, and it has been held that no proof of dependency is necessary to a recovery *American Mill Co.* v. *Industrial Board of Illinois,* (Ill., 1917) 117 N. E. 147.

WORKMEN'S COMPENSATION ACT—"TOTAL DISABILITY."—Previous to his employment by the Wabash Railway Co., Williams, the applicant for compensation, had lost an arm. While in the employment of the railroad he lost a leg. *Held,* in view of the former incapacity the loss of a leg constituted "total disability" within the Workmen's Compensation Act. *Wabash Railway Co.* v. *Industrial Commission* (Ill., 1918), 121 N. E. 569.

The Illinois Workmen's Compensation Act provides that the loss of both hands or both arms, both feet, both legs, both eyes, or any two of them, shall constitute total and permanent disability. *Hurd's Rev. St.* 1917, c. 48, Sec.